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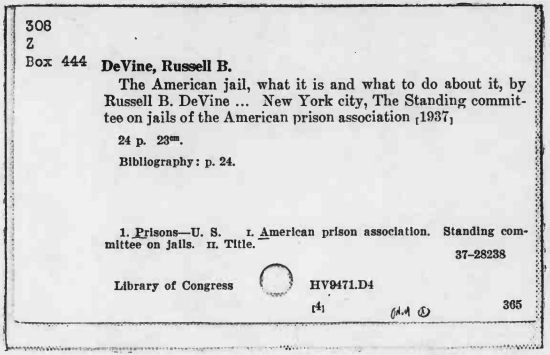
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THE AMERICAN JAIL

WHAT IT IS

AND

WHAT TO DO ABOUT IT

By
RUSSELL B. DEVINE
Richmond, Virginia

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Z
Book
44

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THE STANDING COMMITTEE ON JAILS
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Preface

Dissatisfaction with the jails and the way they are run has been steadily growing for some years. Public interest has been awakening and there has been slowly crystallizing a feeling that "something ought to be done about it." This is very encouraging. The main reason for the plight of the jails is public ignorance and indifference. What interest has been shown in the past has had for its goal improvement in state and Federal prisons. As a result these institutions have registered distinct advances and even the worst of them are infinitely better than the jails. Just why there should be any arbitrary distinction between the people who go to prison and those who go to jail is an abiding mystery.

For several years the Committee on Jails, under the vigorous leadership of its active chairman, Dr. Roy K. Flannagan, has devoted itself to the task of re-creating interest in the local jail and has met with measurable success.

This booklet is a further step in its campaign of education. Herein is briefly recited the historical development of the jail, jails as they are today, who is in them, what are the objectives of the jail, what its defects, the nature of the problem, and lastly, what can be done about it.

These perplexing questions cannot be gone into in minute detail. Volumes would be required for that. Rather, here is presented a sort of constitution or charter, by which may be fixed a point of true departure.

Acknowledgement

Publication of this booklet has been made possible through the generosity of G. Howland Shaw, of the Department of State, Washington, D. C., whose interest in the matter of jail reform was enlisted by Austin MacCormick, Commissioner of Correction of New York City. Grateful acknowledgement is tendered both of them, and the Jail Committee, for many helpful suggestions and comments.

R. B. D.

October, 1937.

THE AMERICAN JAIL

WHAT IT IS

Historical

THE JAIL is one of mankind's oldest institutions. Its roots go far back in human history. The jail (gaol) was the first known place of detention. In the beginning imprisonment meant only the taking away of liberty, and was applied chiefly to untried prisoners. These were detained until trial, after which they were punished in various ways. The penalty for all felonies was death. Misdemeanors were punished by fines, lashings or exposure in stocks. Imprisonment was not employed as a method of punishment in itself.

As time passed, society gradually abandoned most forms of physical punishment and turned more and more to the use of imprisonment for all sorts of crime. The result of these evolutionary processes is the complicated system of today—a system so chaotic as to defy reduction to any rational basis.

The development of jails down through the centuries proves that such institutions do change, and generally for the better. The early jails (gaols) in England were in many cases not even buildings constructed for this purpose. In numerous instances they were leased to individuals, who profited by charging the inmates fees.

A second type of institution was provided by the Elizabethan Poor Laws, known as Work Houses or Bridewells. These institutions brought new factors into the picture, namely, deterrence and reformation, whereas the jail (gaol) had stressed only the idea of detention. In the eighteenth century these two classes of institutions were practically merged, and frequently were located in the same building and under the same management. In 1865 they were consolidated and called prisons.

Throughout the eighteenth century conditions in these prisons were generally bad. In 1773, John Howard launched his exposure of the "state of the prisons," which resulted in the enactment of laws intended to improve sanitary conditions, furnish work for the prisoners, etc.

Jeremy Bentham became very much interested about this time and devised various plans for making all prisons profit-making establishments, and reforming offenders by making them work.

In 1823 Sir Robert Peel secured the passage of his Gaol Act which

reformed court procedure, required sanitary accommodations for the prisoners, changed the keepers from fees to salaries, and instituted reformative measures for all criminals.

The heavy increase in crime immediately following the Napoleonic Wars provoked a demand for the adoption of more stringent deterrent methods, hard labor being the measure most frequently urged. Conflict between different schools of thought raged for years, with the advocates of deterrence finally emerging victorious. Parliament passed a new Prison Act in 1865, which was not permissive as former ones had been, but mandatory. This Act removed nearly all power from local officials and even gave the Secretary of State authority to withhold grants in aid from any such official who failed to cooperate. A considerable number of the smaller prisons were closed as a result of this Act.

In 1877, what was probably the most momentous prison act in English history, was enacted into law. This transferred ownership and control of local prisons to the Secretary of State and provided that maintenance costs should be paid out of the public treasury. It also created a Board of Prison Commissioners and promulgated one set of rules. The Board took over 113 prisons in all, of which 38 were closed immediately. By 1894 only 56 remained open and today there are only 25 local prisons in England.

The new set-up functioned for twenty years without change. Finally, various questions began to arise, so a committee under Mr. Herbert Gladstone was appointed to investigate the situation. The report of this committee culminated in the Prison Act of 1898 which not only brought to an end the nineteenth century regime, but forms the basis of the present system.

The American jail systems were inherited, along with most of our customs, laws and institutions from England, which is the reason the historical developments of the jail in that country have been traced at such length.

Provision was made for jails in orders issued by James I in November, 1606, which designated English law as the law of Virginia. There is no account of the first jail at Jamestown, but there was something of the sort there, because the records reveal confinement of prisoners as early as 1608. Fees payable in tobacco were mentioned in 1626. Imprisonment became quite common by 1631. The early jails were constructed of logs, but in the eighteenth century brick and stone came into general use. In 1642 the first Act dealing with the erection of jails in the counties was passed, and from that time on jails apparently multiplied along with the increase in counties. The same sort of development evidently took place in other states.

Jails were first used in this country, as had been the case in England, as places of detention for people awaiting trial, and as debtors' prisons. Imprisonment as a means of punishment perhaps owes its genesis, or certainly its development as a policy to the Quakers of Pennsylvania and New Jersey. The growth of the jail system in the United States proceeded along substantially the same lines as it had in England, the main difference being that here each state has developed its own system, which has resulted in multiplying the problems a thousand fold.

Jail Systems of Today

There are today in the United States approximately 3,700 county and city jails, besides more than 10,000 local lock-ups. Nearly all of these are more or less independent units. The ground and buildings and equipment are owned by the counties and cities. In the majority of cases the buildings are old, badly arranged, poorly equipped, and altogether unsuited for the confinement of human beings. They are not properly lighted or heated, they do not have the necessary facilities for preparation and service of food, proper provisions for bathing and laundering are lacking, sanitary facilities are of the most primitive nature; only in rare instances are there hospital rooms or means for caring for the sick. Religious exercises are sporadic, educational activities comparatively unknown. Recreation is mostly restricted to card playing, and complete idleness is the order of the day. Filth, vermin, and untidiness are the rule rather than the exception. Only in rare instances is proper segregation possible. All too many of the buildings present very distinct fire hazards and a considerable percentage have no night watchman on duty. Many of them do not even have anyone on duty in the daytime. A very large number of jails are not secure against escape; in other words, they do not even serve their main purpose, which is to protect society.

The jails are generally under the supervision of the sheriffs, sergeants, or their accredited subordinates. The first two classes of officials are elected by the people without regard to their fitness for the job. Few of them have had any experience in the administration of penal institutions or the handling of prisoners. This is probably one of the most serious defects of our jail system today. So long as the jails are managed by officials who have to come up every few years for re-election, no lasting improvement can be hoped for. These men seldom have any

experience in the work when elected, and by the time they acquire such, the chances are they will be defeated. The turnover is terrific. As long as this system is continued, but little improvement can be expected in the administration of jails.

Each state has its own jail system, but in the main, they all conform to the same general pattern. The counties and cities own and operate the jails. There is no central state control or responsibility. Many of the states inspect the jails, report on conditions, and recommend changes and improvements, but have no actual authority to see that such things are carried out. New York and Massachusetts have State Departments of Correction with the requisite authority to enforce recommendations, and if necessary, transfer prisoners and close up jails, but the extent to which such authority is ever invoked is conjectural. Most states do not even have a central clearing house of statistics as to jail commitments. The jails are pretty much local affairs.

In a number of states the fee system is still used as a means of compensating the officers. A certain per diem is paid for each prisoner, and the difference between the cost of feeding him and the amount received goes to the official. This extremely undesirable method has been abolished in a great many states and the officers placed on straight salaries, based in most instances on the total population of the community. In several states, the state pays the cost of prisoners in local jails—an obviously unsound practice.

Jails do not differ greatly throughout the country. In some states they are fairly good, in others inexcusably bad. No one community or section can be indicted alone—all are more or less culpable. The average county or town is too small, and too poor, to erect and maintain the proper kind of jail. There are over 500 jails in the United States in counties of less than 10,000 population. In some of the states prisoners serve long as well as short sentences in the jails; in others, only the short-term offenders serve time in jail. New York operates county penitentiaries as well as county jails. Indiana sends all convicted misdemeanants with sentences of more than thirty days to the state farm. Virginia has 16 penal farms in operation, Federal, state, city, juvenile. The penal farm is receiving more and more consideration throughout the country, and future development of this idea will undoubtedly be steady. Many of the southern states send misdemeanants to the road camps when they have sentences of more than thirty days. In some states attempts are made to keep people out of jail by probation, installment payment of fines, etc. In other states, nothing whatever is done along this line.

The Jail Population

In the year 1936 there were more than 1,000,000 committals to jail in the United States, or one in every 120 of the total population. This tremendous number was divided into two main classes, the persons held as witnesses and awaiting trial, and persons sentenced to serve time. The convicted group was, roughly speaking, 73 per cent white, 23 per cent colored, and 4 per cent miscellaneous races. Something over 10 per cent were foreign-born. More than 10 per cent were less than twenty-one years of age. Approximately 7 per cent of the total were females, of which number 13 per cent were sex offenders. Nearly three-fourths of the convicted prisoners were charged with some violation of laws relating to liquor, larceny or vagrancy. Nearly 45 per cent were sentenced for drunkenness and disorderly conduct. Over 40 per cent of these were above 40 years of age. In the larceny group 80 per cent of the total were under 35 years old. Most of the vagrants were boys, largely runaways, or older men, physically worn out. Less than one per cent of the jail population had been sentenced for offenses having to do with drugs. One per cent of the males were charged with sex offenses. Generally speaking, jail inmates were mentally and physical inferior.

The jails are literally full of large groups of people that common sense dictates should not be there, for the simple reason that no good purpose is served either them, or society, by sentencing them to jail. The enormous numbers of drunks and vagrants cannot be either punished or cured by being thrown in jail for a few days or weeks. These unfortunates need indeterminate sentences, fixed as to maximum and minimum periods, and hard work or proper medical treatment as indicated on state farms or colonies. The large group of people serving time in the jails because of inability to pay the fines assessed should not be there at all, but rather, permitted to pay their fines on the installment plan. Women should have other provision made for their detention and not be sent to jail. Only an occasional jail is equipped to care for females and jails having matrons are few and far between. Juveniles and insane persons compose other important groups of jail inmates, who should never, except in cases of serious emergency or necessity, be sent to jail. Civilized people will not much longer tolerate this. The chronic "repeaters," in for first one thing, then another, and accounting for 60 per cent of the committals, manifestly require other measures than the never ending jail sentences of brief duration. Witnesses and prisoners awaiting trial, the large unconvicted group, constitute another large class obviously having no business in jail for months at a time.

Such, in brief, is the jail population. It is increasing at an abnormal rate entirely out of proportion to the growth in general population.

The population of the jail has altered in nature in some parts of the country in the past century. Most states do not now permit convicted juveniles to serve sentences in jail. Practically all cities of any size now hold even the untried juveniles in detention houses rather than jails. In some cities this development now includes adult females. It is eminently desirable that this movement be extended also to the adult males. Nearly all the states now confine their long term prisoners in the state prisons. Here and there, however, may be found jails where those imprisoned may serve life sentences—and even be executed.

Shortcomings of the American Jail

It has now been shown that most jails are too small, that they are poorly arranged and equipped, that they do not permit necessary classification and segregation, they have not the proper cooking and eating facilities, they do not have modern sanitary arrangements, exercise and recreation is not possible, provision is not made for education or religious instruction, adequate medical care is not supplied, they are poorly lighted and heated, and more often than not in a filthy and verminiferous condition, and even the better jails can do nothing about the complete and deadly idleness. The personnel in charge is untrained, and shifts with each passing election. These are the obvious shortcomings, and are sufficient in themselves to indict the system and explain its complete failure.

Even a casual reading of the story so far reveals in no uncertain way the tragic defects in the American jail—and jail system. The two have been damned so fervidly for so long that further repetition of this sort of thing will not be indulged in here. It has gotten us precisely nowhere up to this time. People have too long condemned the jail as wholly bad and let it go at that. All that has been said about it is true—more could be added. Our concern is that here is a penal institution, through which is passing annually nearly one per cent of our total population, that has fallen down on the job it is supposed to do, and that gives no indication, survey it from whatever angle you will, of ever being anything but a hopelessly expensive misfit in the pattern of penology. The whole jail set-up is too fantastic to believe. Like Topsy, it has "just growed," and now the mature development just doesn't make sense. Here are some 3,700 jails scattered all over the United States, each operating independently, under officials chosen by the people in political elections with

no regard to their qualifications for the job. Great numbers of these jails still run on the fee basis—and it is expected that they will punish and deter crime, rehabilitate the offender and protect society. The thing is impossible, the whole idea is basically unsound. It can never work, and the sooner this is realized and the system discarded, the quicker we shall begin to make some real headway with the problem of dealing with the criminal.

The shortcomings of the jail are so patent that all who run may read. Its almost complete failure as a way of handling the offender is a matter of record, both in the past and present; what more needs to be said?

The Objectives of the Jail

Study of the historical development of the jail indicates how concepts of its functions and objectives have changed through the centuries.

First, the jail was simply a place of detention for people awaiting trial, and a device for exacting payment of debts, taxes, etc. Then, the idea of imprisonment, generally at hard labor, as punishment became the dominant theory. This was superseded by the school of thought that reformation should be the main purpose. Views of the public in general, and penologists in particular, have inclined first one way, then another, until today the objectives of the jail comprehend most of these divergent viewpoints of the past.

Present day objectives may be summarized briefly, as, the necessary protection of society by the confinement of offenders, the punishment of such offenders by the deprivation of freedom and the consequent deterrence from repeating, the prevention of others from the perpetration of crime by the example of this imprisonment, and lastly, the reformation of the criminal. All of these objectives are admirable as well as sound. The difficulty is that none of them save the first are attained. In practice, only the protection of society is achieved, and that only for such time as the criminal is retained behind bars. When it is realized that 98 per cent of those who go to jail serve less than thirty days the limited extent of protection to society is at once apparent. Furthermore, it is extremely doubtful if society requires any considerable protection against the majority of the people in jail. Most of these are not criminals in the real sense, but mainly run-of-the-mine, petty violators of the law. This can be readily confirmed by reference to the population analysis earlier in this booklet. About the only purpose served by the jail as respects these more or less steady customers is to protect them against

themselves and their own weaknesses for the period of their incarceration.

A certain school of thought has always contended that the primary purpose of the jail was punitive and deterrent. Almost every conceivable expedient has been tried to render imprisonment so disagreeable that not only would the transgressor himself be punished, but others would be restrained from following in his footsteps. This may be sound penological theory, but the trouble is that it hasn't worked. The enormous and ever-increasing population of the jails, and the extent to which recidivism or repeating prevails in this country (estimated at 60 per cent) proves conclusively that people do not fear jail sentences, and are not restrained by such.

As for reformation, few thoughtful or informed persons believe for a minute that confinement in jail can contribute in the slightest respect to such an end. The very nature of the jail definitely precludes any such possibility. All the factors and conditions militate against this. The chances are, rather, that the opposite will be true, that the average person will come out of jail worse by far than when he went in. Certainly, no one who ever saw the inside of a jail could esteem it very highly as a place to reform in. It is not possible to introduce reformative influences into the average jail. Long experience with the inmates demonstrates that even religion and education have but little value as reformative agents.

Thus, it is apparent that the jail, because of the very nature of the institution, has never attained in the past, and can never attain in the future, the sound objectives which are the goal of all penal agencies.

The Jail Problem

The facts presented in the preceding sections clearly denote the existence of a jail problem. This problem resolves itself into the following component elements:

1. There are altogether too many jails in the United States.

2. Entirely too many people are committed to these jails.

3. The non-convicted group, that is, witnesses and people awaiting trial, are held in jail too long.

4. Jails are not suitable or proper places for the convicted group to serve sentences.

Few institutions have been abused so long or so fluently as the jail. Few have withstood such violent and long continued denunciation with

so few appreciable results. The jail has witnessed no substantial change in three hundred years. It is today our most important penal institution. Ninety per cent of all people serving time for some offense against the law do so in jail. And yet, the local jail is almost completely discredited as a penal agency in the minds of thinking people. The difficulty in doing anything about it is that it has become a deep-rooted part of our governmental machinery and has gotten inextricably tied up with politics. Most people are either ignorant concerning it or indifferent to its existence, and so, one of the most wasteful and tragic failures in American government has not only survived, but even flourished and waxed fat.

Here and there sporadic attempts at betterment have been launched, but because they have not received popular or legislative support have come to practically naught. The jail has a habit of reverting to type very quickly. Sooner or later something must be done to meet this problem. The question, of course, at once arises as to what to do about it. The answer to this is set forth in the following pages. Part Two of this booklet presents an integrated program of reform of the jail system. There is nothing visionary, or academic, or sentimental about this program. Every part of it has worked, or is working, successfully somewhere today. With necessary modification to meet local conditions it should work anywhere in the United States.

WHAT TO DO ABOUT IT

Any program for changing the present jail system ought to concentrate on three major objectives:

I KEEP PEOPLE OUT OF JAIL.

II SHORTEN TIME SPENT IN JAIL BY WITNESSES AND PEOPLE AWAITING TRIAL.

III ESTABLISH A NEW AND BETTER SYSTEM OF HANDLING CONVICTED MISDEMEANANTS.

I Keep People Out of Jail

Too many people are sent to jail, many of them for no good and valid reason. Any new approach to the jail problem should have for its first and foremost consideration the objective of keeping as many people out of jail as is humanly possible. This aspect of the situation is one that has received all too little attention so far. Heretofore, the chief concern apparently has been to fill the jails up. It is the line of least resistance, of course. "Five, ten, thirty, sixty days in jail, fine and costs," what easier way to dispose of cases could be found than this refrain? Just what good is done either to the victim or society no one can say. When the public arouses to the futility of this almost universal practice, and demands that more intelligent measures be adopted for dealing with petty violators of the law, then, the present deplorable picture will change rapidly—and for the better. The proposals described below have worked admirably to this end in various parts of the world.

1. Reforms Should Be Effected in Court Machinery and Judicial Procedure.

Specific recommendations cannot be enumerated because each state has its own laws and a desirable change in one state may not be necessary elsewhere. It is well known, however, that the passage of laws has become such an industry in recent years that the statute books have become literally cluttered with new legislation and the wheels of justice consequently slowed down. In the United States this has tended to protect the criminal against society rather than society against the criminal.

Much could, and should be done, in every state to eliminate useless laws, and put a stop to the obstructive tactics and endless delays now the rule rather than the exception. England has set an example in this respect that every state could profitably follow.

2. The Use of Bail and Personal Recognizance Should Be Greatly Extended.

Bail, of course, is in more or less general use at this time. Its application should be widened in considerable degree. It should be made easier to obtain and, if necessary, lowered in deserving cases. Everyone who can give bond stays out of jail now regardless of the degree of criminality. It is only the impoverished and uninfluential who remain behind bars. This is common knowledge. The jail is, in very truth, the poor man's institution—it is operated almost exclusively for his "benefit."

Personal recognizance is used but little at the present time. There is no apparent reason why it shouldn't be very generally employed. This is especially true in rural sections where nearly everyone is known to the court and will nearly always appear as directed, at a specified future date. Recognizance unlike bail is essentially a form of credit with no security except knowledge of the person and the belief that he will live up to his agreement. This device for keeping people out of jail merits a trial everywhere.

3. Adopt the Installment Collection of Fines.

The custom of fining people who violate some of our multitudinous laws is an excellent one and is a method of punishment that should be put into more general operation. The present plan, however, of imposing fines, then, when the person is unable to pay, interning him in jail to serve out the fine at the taxpayers' expense is one of the strangest of the many stupidities our system of justice is afflicted with. It simply does not make sense, look at it as one will.

This business of jailing people who are unable to pay their fines has assumed enormous proportions in the United States. Estimates show that nearly one-half of the people in jail are there for inability to pay their fines. This is not only a travesty on justice, but intelligence. What is supposed to be accomplished no one has been able to explain. The logical thing to do, of course, is to permit the payment of fines on the installment plan. The American people do everything else on this basis from weddings to funerals, so why should not fines be paid in the same way? The idea is sound from every point of view. The community does not have to support the person in idleness, nor his family on relief. The punishment for his offense is held over his head until the fine is paid. If he does not pay he can still be taken into custody. This policy produces the best results when there is an adequate probation system, but it works, even when administered solely by the court, without other assistance.

Installment collection of fines has succeeded wherever tried. In several states it has not only paid the cost of the probation systems, but turned large additional sums into the state treasuries. Not one valid argument has ever been adduced against this method of collecting fines.

4. Adopt a State Probation System.

This is unquestionably the best single step that could be taken to keep people out of jail. A majority of the states already have probation. The difficulty is, that politics has gotten into the systems here and there, with the inevitable resulting inefficiency and corruption. Political favoritism has caused the release of certain individuals after sentence who later have achieved front page notoriety because of some criminal exploit, and right now there is widespread public confusion as to the whole probation situation because of these facts. The thousands who are making good on probation are completely forgotten.

Probation has been criticized, not because of any inherent defects in the idea, but because it has been misused.

Probation was introduced first in the United States by Massachusetts in 1878, and has been successfully used there ever since. In this connection, it is worthy of note, that not only has this state built no new jails, but has actually closed up five during this time. The number of persons on probation has increased, but the number sent to jail has decreased, and crime has diminished.

Probation is a process of punishment by which the convicted person does not go to jail, but continues to live in the community under the supervision of a probation officer. It will not work in all cases; in fact, there are many people who should never be placed on probation. It is dependent upon intelligent selection and careful supervision. It is absolutely sound in theory, and given the above two elements and complete separation from political interference, will rarely fail.

Its advantages are obvious and manifold, both as respects the individual and state. It certainly is a big step towards rehabilitation of an offender who has any possibilities of reclamation left. It enables him to go on with his usual way of living, does not deprive him of his job, or his family of support, does not subject him to demoralizing association with criminals, and keeps alive his self-respect. From the standpoint of the state the advantages are no less manifest. Probation keeps down the jail population, and so, lowers criminal costs. It is a much cheaper method of caring for offenders, averaging less than one-tenth the cost of institutional confinement. It obviates the necessity for expensive new buildings to house the rising number of law-breakers.

It is altogether probable that probation, in order to secure the maximum results, will have to be organized and administered by the state. It is not a local function. It has remained so too long and this accounts for many of the difficulties it has experienced. Uniformity and efficiency will never be secured while probation remains a local matter. Probation is simply another means of treating criminals. It should be set up and controlled by the state. Standards can then be raised and the system made state-wide in application. Every court can be required to have probation service. Probation officers can be selected from a list of qualified individuals who have passed an appropriate examination. Uniform rules can be prescribed. Statistics can be collected and studied and made available to the public by one central office. When these things shall have been done, probation will take its rightful place as one of the most important methods of handling a very large element of the criminal population.

II Shorten Time Spent in Jail by Witnesses and People Awaiting Trial

Few things connected with criminal law are so indefensible as the practice of holding the above two classes of arrested persons in jail for long periods of time pending court action. Many of them are not even charged with any crime. Many who are charged with some offense are not convicted.

The study made along this line in Cook County, Illinois, some years ago showed only thirty-four convictions out of every hundred arrests, and, when felonies alone were considered, only twenty-five convictions to every hundred arrests. If this reflects in any accurate degree conditions in the country at large, many more innocent than guilty people go to jail. It is almost certainly true that as much time is spent in jail before trial as afterwards. It has not been possible to secure any reliable records as to the time people have to remain in jail awaiting trial by county and city courts, but the period served by Federal prisoners before they are tried is approximately twenty-eight days. This cannot be justified on any score.

Certain measures proposed for keeping people out of jail can also be used to lessen the time spent there by witnesses and persons awaiting trial. Bail and personal recognizance, perhaps release in the custody of a probation officer—these are means to the end. Above all else, immediate steps should be taken to insure speedy trials and put an end to the innumerable delays now clogging up the processes of law. The low

rates of crime abroad are largely due to the fact that hearings are swift and punishment certain.

III Establish a New and Better System of Handling Convicted Misdemeanants

To accomplish this the following measures are necessary:

1. Abandon Jails as Places for Serving Sentence.

Enough has been said to convince anyone that jails are not in any respect proper places for sentenced prisoners—they are not proper places for prisoners of any kind. Most county jails should be closed. A number of the best in areas of heavy commitments will have to be retained for the detention of prisoners awaiting trial. These should be modernized and arranged to permit the requisite segregation of inmates. The buildings should be properly equipped and staffed with trained personnel. These detention centers should not hold any convicted prisoners—all such should go immediately, after sentence is passed, to state regional farms. England settled this problem by consolidating 138 jails into 25—it would seem that we might profitably follow such an example.

It is likely that we shall be able to do away with but few of the city jails any time soon, if ever. We can, however, require sentenced prisoners to be sent at once to state farms, and retain the city jails solely as detention centers for people awaiting trial. If the present ones are kept for this purpose they should be required to meet approved standards. Every city will probably require a place of detention for untried prisoners. If existing jails meet the necessary requirements they can be used, but if not, new quarters should be constructed. The practice of confining untried and convicted prisoners together should be done away with, now and forever. The present system cannot be defended. It inflicts grave injustice on the arrested person and complicates the administration and conduct of the institution.

Striking evidence to conclusively prove that the jail should be abandoned as a place to serve sentence can be had by reading the reports of the United States Bureau of Prisons. This agency inspects most of the jails in the country, and even a casual survey of its findings demonstrates conclusively the fact that the average jail is not capable of attaining its objectives and that it has no place in modern society.

The small local lockup has even less justification for existence than the county jail. Most of them are not fireproof and have no guard on duty either day or night. A very considerable number of prisoners pass

in and out of these lockups during the course of a year. As a general thing, they are not subject to inspection, nor control, other than such as is exercised by local authorities. These lockups should be indicted even more strongly than the jails and should be abolished.

2. Establish a Series of Regional State Farms for Convicted Prisoners.

The penal farm is not a new idea. It has been in use both here and abroad for a great many years, and cannot be regarded as an experiment. Switzerland, Belgium and Holland have had marked success with different types of farms. Russia is said to be furthering extensively the development of penal farms. In the United States the southern states have been the leading exponents of the idea, nearly all of them having adopted it in greater or lesser degree. Mississippi, Florida, and Alabama have very large farms, there being one of 16,000 acres in the first-named state. Virginia has within its borders practically every known type of penal farm, some sixteen in all.

In view of what has been learned up to this time the farm seems to offer the best solution to the problem of handling convicted criminals —certainly this is true as respects misdemeanants. The right sort of buildings and physical equipment could be provided, in charge of trained administrators. Segregation would be possible. Idleness, the greatest curse of the jail, would be totally eliminated. All prisoners would work at something and partly support themselves. Such farms should be partly agricultural and partly industrial, like the District of Columbia institutions located at Lorton and Occoquan in northern Virginia. They would not need to be maximum security units, but, instead, minimum security units employing the dormitory system rather than expensive cell blocks, and guards rather than high walls. Such places have been operating for a quarter of a century and more. On farms like these it would be possible to rehabilitate a considerable number of the people committed, and return them to society as useful citizens—something no jail can ever be expected to do. Farms of this kind would do much to stop "repeating." Few steady habitues of the jail have any fondness for work, and if they had to go to these farms and serve their sentences at hard labor, they would not be disposed to return so promptly. Farms, therefore, should materially decrease the incidence of crime. In brief, farms would accomplish practically everything jails now fail to do, and in most instances at less cost. It is not contended that they would solve all our penal problems, but they would go a long way in that direction.

3. Adopt the Indeterminate Sentence.

Few things are so badly needed in the field of penology today, and few would go as far in overcoming the tribulations now being borne by the courts, law enforcement officers, and penal institution administrators as the indeterminate sentence. Short sentences are probably the greatest curse of our present "Alice-in-Wonderland" system. What purpose they serve is one of life's mysteries. Certainly they are not regarded as punishment by those receiving the same, for 60 per cent come back for more. To all practical intent they simply release the wrongdoer quickly, so that he may have opportunity to commit additional crimes. The indeterminate sentence, between fixed maximum and minimum limits, answers a lot of questions. It probably supplies, in conjunction with state farms, the only feasible method for handling the biggest group of regular jail customers, the chronic repeaters, drunks and vagrants. Short sentences for these groups are ridiculous. But, if sentenced indeterminately between high and low brackets, the chances are that a certain number of them might be reclaimed for useful living. Certainly nothing is being accomplished by our present methods of dealing with them. The system in vogue today is based on the custom that certain sentences should be given for certain offenses. Crime, however, cannot be classified in arbitrary fashion nor can its punishment be measured in standardized doses.

The ideal plan, and probably the one we shall come to eventually, is for the courts to pass only on the guilt or innocence of the accused, who is then sentenced to the state. This is done now with mental patients and would seem to be the sensible way to deal with the criminal. However, this is not imminent. Today, the absolute indeterminate sentence; that, is, with no maximum and minimum limits, is nowhere to be found. The indeterminate sentence within limits, however, is in use in a number of states and seems from all accounts to be working satisfactorily. It should be universally adopted.

4. Abolish the Fee System.

Fees, in connection with jails and crime, are older than the proverbial hills. Jails were once leased to individuals who exacted what fees they could from the inmates. Now they are exacted from the public treasury. Fees, payable in tobacco, were mentioned as early as 1626 in colonial history. Almost since that time they have been roundly denounced. As a matter of fact, it is generally the fee system rather than the jail which has been attacked. A considerable number of states have done away with this indefensible method of payment, and the remainder should lose no

time in following suit. There is nothing sacrosanct about fees. Not a single valid argument can be advanced on behalf of them—they are an abomination in the sight of God and man, a continuing affront to our boasted civilization. Officers having to do with jails and law enforcement should be placed on fair and equitable salaries. Such salaries are generally based on the population and area of the county. Costs of keeping prisoners should be paid, as are other expenses, on submission of properly audited bills, from the public funds.

It is but natural, when fees are abolished and officers placed on salaries, that most of the opposition to the creation of a better system for handling misdemeanants will disappear. There has never, at any time, been the slightest justification for dealing with crime on a fee basis, and a civilized people should not tolerate it any longer.

5. Set Up Central State Administration of the Jail System.

This might be termed prerequisite, if any definite progress is to be made in jail reform. Manifestly, as long as the present chaotic system of dozens of independent jails scattered over each state continues, there can be no real improvement. There is no such thing as central state control of jails in the United States at this writing. Several states have passed laws giving them power to control conditions affecting the jails. New York and Massachusetts have State Departments of Correction, with supervisory powers over the jails. They inspect the jails and formulate regulations for their operation. They can transfer prisoners, and, if necessary, order jails closed. All this is highly desirable, and quite necessary, but it isn't enough. Most states, of course, do not even begin to do this much. Many of them do nothing at all, others conduct inspections of the jails and make reports and recommendations, but have no authority to enforce the latter. In only a few states, less than a dozen, are jail committals cleared through any central agency.

What is needed is to reorganize the whole set-up, as England did in 1877, and place all jails under one state administrative authority. This body should be vested with the necessary power to revamp the existing chaotic system, to consolidate and close jails, to transfer prisoners, to establish penal farms, to recondition existing structures, or erect new ones in areas of heavy committals for the detention of untried prisoners, to fix standards and draw up codes of rules and regulations—in brief, to unify the system and make it an effective instrument for dealing with the problem of crime.

In this unit there should be established a division of records and

statistics, charged with the duty of devising and operating a first-class system of crime reporting. All too little is now known, either about crime or the criminal, and until a better and more complete method of collecting and reporting statistics on a state-wide basis is developed, very little can be done in the way of striking at the sources of trouble. We do not know what these sources are.

There should also be established under the state control agency a bureau of crime prevention. Most of the efforts in America have been concentrated on doing something about crime after it has been committed. When we get adequate statistics and information as to its focal centers, then an intelligent and sustained campaign can be launched to prevent the occurrence of crime in the first place. This idea has no popular appeal—it is not spectacular enough. But if we are to cut down the ever-increasing spread of crime, the preventive angle is the one that must be approached with every resource and agency at our disposal.

Conclusion

This is the story briefly. It is purely factual. The facts themselves are graphic enough to dramatize what is in most respects a sordid record of ineptitude and failure.

The compelling need, if any real progress is to be made, is for realistic consideration of this problem. There is nothing really incomprehensible about the jail system nor any insuperable obstacles to changing it. The only thing difficult to understand is why we have endured the situation so long. Always hitherto the approach has been sentimental rather than rational. Few subjects have been productive of so much muddy thinking and loose talk.

It does not always have to be so. Other nations have confronted similar problems and overcome them. England, which gave us our present system, met the same issues now before us, sixty years ago, and abandoned the set-up that we still cling to. *It can be done.*

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BIBLIOGRAPHY

BATES, SANFORD: *Prisons and Beyond.*

GILLIN, JOHN L., PH. D.: *Taming the Criminal.*

GILLIN, JOHN L., PH. D.: *Criminology and Penology.*

FISHMAN: *Crucibles of Crime.*

MACCORMICK: *Education of Adult Prisoners.*

STEINER AND BROWN: *North Carolina Chain Gang.*

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FETTER: *Witzwil, A Successful Penal Farm.*

Annual Proceedings of the American Prison Association.

Publications of the United States Bureau of Prisons.

Publications of the United States Census Bureau.

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